

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

Crl.MC.No. 1750 of 2007()

CRIME NO.76/07 OF THE VALAYAM POLICE STATION.

PETITIONER:

NASAR, S/O.AMMAD.
KANIYANDIYIL HOUSE, CHEKKIYAD AMSOM,
UMMATHUR DESOM, VADAKARA TALUK,
KOZHIKODE DISTRICT.

BY ADV. SRI.SUNNY MATHEW
SRI.ABDURAHIMAN VAYALIL PEEDIKAYIL

RESPONDENTS:

1. TAIKANDY THAZHEKUNI NAVAS,
S/O.ABDULLAH, P.O.PARAKKADAVU, NADAPURAM.
2. ILLATH SALLY, S/O.ABDULLA HAJI,
P.O.PARAKKADAVU, NADAPURAM.
3. VALLUVASSERI NISSAR,
S/O.KHADER, P.O.PARAKKADAVU, NADAPURAM.
4. POOVANMADATHIL MUHAMOOD,
S/O.ISMAYIL, P.O.PARAKKADAVU,
NADAPURAM.
5. TAIKANDY ABDHULLA,
S/O.AHAMMAD, P.O.PARAKKADAVU,
NADAPURAM.
6. CHENAPARAMBIL SIRAJ, PO.PARAKKADAVU,
NADAPURAM.
7. THE SUB INSPECTOR OF POLICE,
VALAYAM POLICE STATION.

8. THE SUPERINTENDENT OF POLICE,
C.B.C.I.D., KOZHIKODE.

9. THE STATE OF KERALA, REPRESENTED
BY THE HOME SECRETARY, DEPARTMENT OF HOME
AFFAIRS, SECRETARIAT, TRIVANDRUM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06/06/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

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Dated this the 6th day of June, 2007

ORDER

The petitioner is the de facto complainant in a crime which was registered alleging offences punishable, inter alia, under Sec.308 of the IPC and Sec.25 of the Arms Act. The incident had taken place on 11/5/07. The crime was registered on 12/5/07. Investigation commenced. The police appear to have come to the conclusion readily that no offences punishable under Sec.308 and 326 of the IPC and Sec.25 of the Arms Act have been made out. A report was filed to drop those allegations. The accused were arrested and released on bail also.

2. The petitioner has come to this Court with a grievance that proper investigation has not been conducted into his case. The accused persons are very affluent and influential. The police have tailored the investigation to suit their convenience.

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The prayer made in this petition filed under Sec.482 of the Cr.P.C. is that the investigation may be directed to be conducted by a senior police official. It is further prayed that the bail granted to the accused may be cancelled.

3. Notice was given. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that private vengeance is prompting the de facto complainant to make such allegation against the Investigating Officer. A proper investigation has been conducted. There are many cases between the two rival groups in a political party. The police had conducted a fair, transparent and thorough investigation. The wound certificate was perused. The Medical Officer has reported that the injury was simple. It is, in these circumstances, that the decision to alter the Section was made and the accused were granted bail. At any rate, there are no circumstances justifying a direction for entrustment of the investigation to any other senior official or for cancellation of the bail granted to the accused.

4. I have not ordered notice to the respondents/accused. Only the learned Public Prosecutor was heard. On going through the materials available in this case, I am certainly of

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opinion that no directions deserve to be issued under Sec.482 or Sec.439 of the Cr.P.C. to cancel the bail granted to the accused persons. The wound certificate which has been placed before me reveals that the injury was certified by the Doctor to be simple. The learned counsel for the petitioner has, of course, produced the medical documents to indicate that there was perforation of the eardrum on the left side and that there is impairment of hearing on that side.

5. It remains that a proper and thorough investigation has got to be conducted. At any rate, the course adopted by the police so far cannot be faulted. In the peculiar facts and circumstances of this case, I would certainly direct the Superintendent of Police, Kozhikode (Rural) – the superior official of the 7th respondent, to ensure that the investigation is properly and continuously monitored and necessary directions given from time to time to the 7th respondent. If necessary, the Superintendent of Police, Kozhikode (Rural) can direct that the investigation be conducted by a senior official under him. At the moment, such directions appear to be unnecessary.

6. In the result, this Crl.M.C. is dismissed; but with the specific direction to the Superintendent of Police, Kozhikode

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(Rural) to ensure that the investigation is properly monitored and supervised.

Sd/-

(R. BASANT, JUDGE)

Nan/

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P.S. to Judge